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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Richard A Schonfeld,
10 Plaintiff,

11 v.

12 Sunshine Auto Sales Incorporated, et al.,
13 Defendants.
14

No. CV-20-08303-PCT-DLR

ORDER

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16 This is a breach of warranty action arising from Plaintiff's purchase of a motor home
17 manufactured by Defendant Thor Motor Coach, Inc. ("Thor") and sold to Plaintiff by
18 Defendant Sunshine Auto Sales, Inc. ("Sunshine"). As part of the purchase, Plaintiff was
19 required to sign a Warranty Registration Form, which contains a forum-selection clause
20 identifying Indiana as the "[e]xclusive jurisdiction for deciding legal disputes relating to
21 alleged breach of express warranty and implied warranties[.]" (Doc. 16-2 at 3.) At the
22 time of purchase, Plaintiff also was provided a written copy of the Limited Warranty, which
23 contains a similar forum-selection clause. (*Id.* at 15.) Thor and Sunshine move to dismiss
24 this action or, in the alternative, to transfer venue to the United States District Court for the
25 Northern District of Indiana in accordance with the forum-selection clause. (Doc. 16.) The
26 forum-selection clause does not apply to Defendant Ford Motor Company ("Ford"), but
27 Ford has no opposition to a transfer of venue. (Doc. 19.) Plaintiff opposes a transfer.
28 (Doc. 18.)

1 An agreement containing a valid forum-selection clause “may be enforced through
 2 a motion to transfer under [28 U.S.C.] § 1404(a).” *Atlantic Marine Constr. Co., Inc. v.*
 3 *U.S. Dist. Court for Western Dist. of Texas*, 571 U.S. 49, 59 (2013). Section 1404(a)
 4 provides: “For the convenience of parties and witnesses, in the interest of justice, a district
 5 court may transfer any civil action to any other district or division where it might have been
 6 brought or to any district or division to which all parties have consented.” When
 7 determining whether the convenience of the parties and witnesses favor a transfer, a court
 8 ordinarily weighs multiple factors, including:

9 (1) the location where the relevant agreements were negotiated
 10 and executed, (2) the state that is most familiar with the
 11 governing law, (3) the plaintiff’s choice of forum, (4) the
 12 respective parties’ contacts with the forum, (5) the contacts
 13 relating to the plaintiff’s cause of action in the chosen forum,
 14 (6) the differences in the costs of litigation in the two forums,
 15 (7) the availability of compulsory process to compel
 16 attendance of unwilling non-party witnesses, and (8) the ease
 17 of access to sources of proof.

18 *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498-99 (9th Cir. 2000). The calculus
 19 changes, however, when the parties have agreed to a contract containing a valid forum-
 20 selection clause. In such circumstances, “a valid forum-selection clause [should be] given
 21 controlling weight in all but the most exceptional cases.” *Atlantic*, 571 U.S. at 63 (internal
 22 quotation and citation omitted). A forum-selection clause requires a district court to adjust
 23 its usual § 1404(a) analysis in three ways: (1) the plaintiff’s choice of forum merits no
 24 weight, (2) the court should not consider arguments about the parties’ private interests, but
 25 may consider public-interest factors,¹ and (3) when a party files suit in a different forum
 26 than agreed to in the forum-selection clause, a §1404(a) transfer of venue will not carry
 27 with it the original venue’s choice-of-law rules. *Id.* at 63-64

28 Plaintiff’s opposition to a transfer is based on his denial that he signed the Warranty
 Registration Form and his belief that his signature on that document was forged. (Doc.

¹ “Because those factors will rarely defeat a transfer motion, the practical result is
 that forum-selection clauses should control except in unusual cases. Although it is
 conceivable in a particular case that the district court would refuse to transfer a case
 notwithstanding the counterweight of a forum-selection clause, such cases will not be
 common.” *Atlantic*, 571 U.S. at 64 (internal quotations and citation omitted).

18.) The Court does not need to determine the authenticity of Plaintiff's signature, however, because the Warranty Registration Form is not the only document that contains a forum-selection clause. The Limited Warranty contains a similar forum-selection clause and Plaintiff does not deny that he received a copy of the Limited Warranty. To the contrary, Plaintiff has sued to enforce the provisions of the Limited Warranty, thereby acknowledging both the Limited Warranty's validity and its applicability to him. Plaintiff cannot pick and choose which terms of the Limited Warranty to abide. Moreover, the Warranty Guide provided to Plaintiff states, in relevant part:

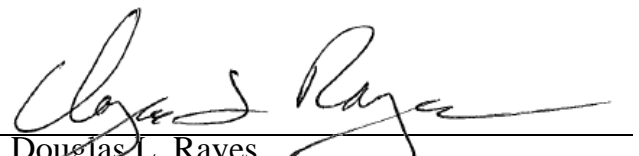
When you request and accept performance of warranty repairs under the terms of this Limited Warranty, you are accepting all terms of this Limited Warranty, including by way of example, warranty limitations and disclaimers, the forum selection clause and the clause reducing the time period when suit must be filed for breach.

(Doc. 16-2 at 12.) Plaintiff admittedly submitted his motor home for repairs under the Limited Warranty, thereby accepting its terms. Accordingly,

IT IS ORDERED that Thor and Sunshine's motion to transfer venue (Doc. 16) is **GRANTED**. This matter shall be transferred to the United States District Court for the Northern District of Indiana pursuant to 28 U.S.C. § 1404(a) and the Limited Warranty's forum-selection clause.

IT IS FURTHER ORDERED that Plaintiff's motion for sanctions related to the filing of the motion to transfer venue (Doc. 18) is **DENIED**.

Dated this 26th day of January, 2021.


Douglas L. Rayes
United States District Judge